

MEMORANDUM

To: Zoning Board of Appeals

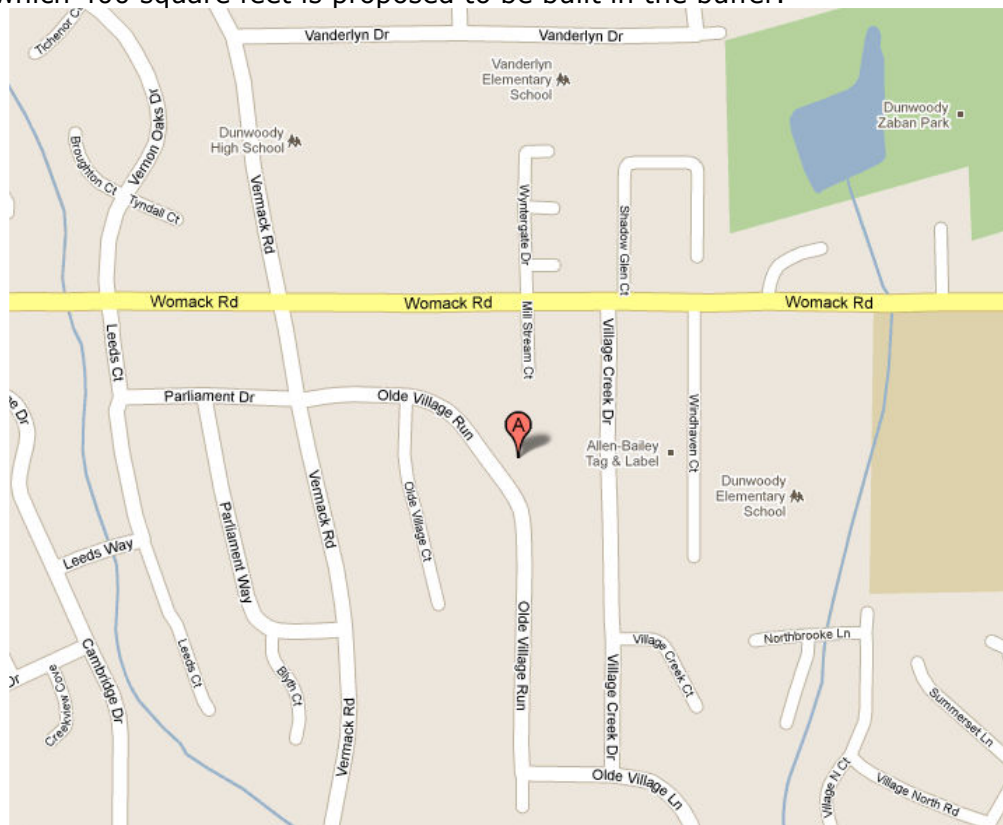
From: Howard Koontz, City Planner

Date: May 5, 2011

Subject: ZBA 11-051: Variance from Chapter 16, Section 16-254(4) to allow construction of an addition to a single-family residence in the City stream buffer

ITEM DESCRIPTION

Karen & Ben Deutsch, owners of 1852 Olde Village Run, Dunwoody, GA 30338, request the following: Variance from Chapter 16, §16-254(4) to allow the construction of an addition to a single-family residence in the City stream buffer. The applicant requests to encroach into the stream buffer 17 ½ feet, because of an addition consisting of approximately 520 square feet, of which 400 square feet is proposed to be built in the buffer.



BACKGROUND

The site, a single family home lot in the Village Mill subdivision, is located on the east side of Olde Village Run, east of its intersection with Vermack Road. The property is zoned R-100 (Single family residence district) and is situated such that a stream runs along the east side (rear) of the property. The lot is generally flat in the front yard and slopes slightly down toward the creek and is moderately tree-covered along the sides and rear. The applicant's request is to add a 520 square foot room addition, almost all of which is proposed to be constructed within the 75 foot stream buffer. No portion of the existing house currently encroaches into the buffer.

ANALYSIS

The environmental criteria enumerated for consideration are found in Chapter 16, Section 16-84(c)(3) of the Land Development and Environmental Protection ordinance. They read as follows:

In considering a request for a variance to the terms of this Article authorized in subsection (c)(1) above, the Board of Zoning Appeals shall use all of the following criteria:

- a. The request, while not strictly meeting the requirements of this chapter, will be, in the judgment of the Zoning Board of Appeals be at least as protective of natural resources and the environment as would a plan which met the strict application of these requirements. In making such a judgment, the Zoning Board of Appeals shall examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:
 1. Stream bank or soil stabilization;
 2. Trapping of sediment in surface runoff;
 3. Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff;
 4. Terrestrial habitat, food chain, and migration corridor;
 5. Buffering of flood flows;
 6. Infiltration of surface runoff;
 7. Noise and visual buffers;
 8. Downstream water quality; and
 9. Impact on threatened and endangered species, as those species are designated by law or federal or state regulation.
- b. By reason of exceptional topographic or other relevant physical conditions of the subject property that were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.

The site plan indicates that there is essentially no buildable area in the rear yard outside of the city stream buffer, and very little buildable area in the front yard that would allow for the construction of an addition without the need for a front

yard variance. The city stream buffer covers nearly half of the subject lot, most of which would otherwise be buildable were it not for the presence of the stream in the rear yard.

- c. The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties that are similarly situated.

The applicant is requesting permission to erect a structure almost entirely in the stream buffer. This constitutes a special privilege not afforded to other residents today; however, many of the homes in Dunwoody, including the subject home, were constructed near streams, prior to the institution of stream buffer yards.

- d. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.

The applicant has proposed to institute best management practices and proposes to maintain those measures to mitigate the effect of storm water runoff during and after completion of construction of the yard improvements.

- e. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause an extreme hardship, provided the hardship was not created by the owner.

Any hardship, real or perceived, would not be undue because the proposed project is discretionary on the part of the applicant.

RECOMMENDATION

Staff recommends the application be **denied**, as it does not meet all the requirements of Section 16-84(c)(3).